

Jayne's Overall Comments on Oregon's NPS Plan

1. Oregon needs to explain why the current Plan is being revised. (*Addressed. See page 12*) May want to include the need to update the Plan every 5 years and submit for EPA's approval (*Addressed. See page 12*), discuss any major changes from the original plan (*not addressed*) and how the plan will be updated in the future. (*Addressed. See page 12*)
2. Consider where to include the public participation process in the Plan's development—whether to include in the Plan itself or as part of the submittal to EPA. *Addressed in Plan. See page 12-13.*
3. Consider incorporating the 303d new vision and goals into this plan including additional information to be incorporated into the Integrated Reports by 2016. *Included vision in Integrated Report milestone on page 20 (no date) and pages 31-32.*
4. Need to provide more detail on the process and criteria used to prioritize waters for protection and restoration. *Addressed briefly on pages 31-32.*
5. Need to include new information required to be in the TMDL documents (“...as a condition of using § 319 funds to develop TMDLs, the state will include the following supplemental information to support the load allocations specified in the TMDL: (1) an identification of total NPS existing loads and total NPS load reductions necessary to meet water quality standards, by source type; (2) a detailed identification of the causes and sources of NPS pollution by source type to be addressed in order to achieve the load reductions specified in the TMDL (e.g., acres of various row crops, number and size of animal feedlots, acres and density of residential areas); and (3) an analysis of the NPS management measures by source type expected to be implemented to achieve the necessary load reductions, with the recognition that adaptive management may be necessary during implementation.”) *Could not locate in the Plan.*
6. Explicitly describe how DEQ and other state agencies partner with Tribes to address tribal concerns pertaining to NPS. *Added section on Tribal Coordination on pages 27-28.*
7. May want to include a list of acronyms in an appendix or at the beginning of the report. *Added to end of the report.*
8. Under the CZARA section, requested two revisions on the language. *ODEQ revised the language.*

Key Components of an Effective State Nonpoint Source Management Program Checklist: Oregon

1. The state program contains explicit short- and long-term goals, objectives and strategies to restore and protect surface water and ground water, as appropriate.

The state's long-term goals should reflect a strategically focused state NPS management program designed to achieve and maintain water quality standards and to maximize water quality benefits. The shorter-term objectives consist of activities, with annual milestones, designed to demonstrate reasonable progress toward accomplishing long-term goals as expeditiously as possible. Since the NPS management program is a longer-term planning document, the annual milestones may be more general than are expected in an annual section 319 grant workplan, but are specific enough for the state to track progress and for EPA to determine satisfactory progress in accordance with section 319(h)(8). Annual milestones in a state's NPS management program describe outcomes and key actions expected each year, e.g., delivering a certain number of WQ-10 success stories or implementing projects in a certain number of high priority impaired watersheds. The state program includes objectives that address nonpoint sources of surface water and ground water pollution as appropriate (including sources of drinking water) in alignment with the goals of the Clean Water Act. The objectives include both implementation steps and how results will be tracked (e.g., water quality improvements or load reductions).

Location in Oregon's NPS Plan: Table 1 (pages 18-25)

Evaluation: Could be improved.

Provides general milestones with a majority of all timeframes identified as 2014-2018 (and one with a "?") with a focus on implementation steps and **very few milestones track water quality improvements.**

It appears that there are no objectives that address nonpoint sources of ground water pollution.

There are no specifics on numbers of actions to be accomplished such as number of WQ-10 success stories or implementing projects in a certain number of high priority impaired watersheds.

Projects on specific waters are prioritized for funding purposes but not for restoration or protection purposes.

2. The state strengthens its working partnerships and linkages to appropriate state, interstate, tribal, regional, and local entities (including conservation districts), private sector groups, citizens groups, and federal agencies.

The state uses a variety of formal and informal mechanisms to form and sustain these partnerships such as memoranda of agreement, letters of support, cooperative projects, sharing and combining of funds, and meetings to share information and ideas.

The state NPS lead agency works collaboratively with other key state and local NPS entities in the coordinated implementation of NPS control measures in high priority watersheds. Interagency collaborative teams, NPS task forces, and representative advisory groups can be effective mechanisms for accomplishing these linkages, as can more informal but ongoing program coordination and outreach efforts. The state works to ensure that its local partners and grantees have the capacity to effectively carry out watershed implementation projects funded to support its NPS management program.

Further, the state seeks public involvement from local, regional, state, interstate, tribal and federal agencies, and public interest groups, industries, academic institutions, private landowners and producers, concerned citizens and others as appropriate, to comment on significant proposed program changes. This involvement helps ensure that environmental objectives are well integrated with those for economic stability and other social and cultural goals.

Location in Oregon's NPS Plan: Pages 1-2, Section 3.2 Public Review (pages 12-13), Section 3.4: Partnerships (pages 26-29)

Evaluation: Could be improved.

Listed partnerships and included agreements between agencies. ***Could have added information that explained the role of each of these agencies preventing or addressing NPS pollution.***

Included tribal coordination.

Notes that Oregon sought public comment on this plan and the 319 NPS guidance's requirement on explaining how the state seeks public involvement from local, regional, state, interstate, tribal and federal agencies, and public interest groups, industries, academic institutions, private landowners and producers, concerned citizens and others as appropriate, to comment on significant proposed program changes. ***Did not explain how Oregon seeks public involvement on significant proposed program changes.***

Because the Plan does not include a list of high priority watersheds, there is nothing in the plan that explains how the state NPS lead agency works collaboratively with other key state and local NPS entities in the coordinated implementation of NPS control measures in high priority watersheds.

3. The state uses a combination of statewide programs and on-the-ground projects to achieve water quality benefits; efforts are well-integrated with other relevant state and federal programs.

The state has the flexibility to design its NPS management program in a manner that is best suited to achieve and maintain water quality standards. The state may achieve water quality results through a combination of watershed approaches and statewide programs, including regulatory authorities, as appropriate. The state NPS management program emphasizes a watershed management approach and includes an explanation of the state's approach to prioritizing waters and watersheds to achieve water quality restoration and protection.

The state NPS management program is well integrated with other relevant programs to restore and protect water quality, aligning priority setting processes and resources to increase efficiency and environmental results. These include the following programs, as applicable:

- *Total Maximum Daily Loads (TMDLs);*
- *Clean Water State Revolving Fund (CWSRF);*
- *U.S. Department of Agriculture (USDA) farm bill conservation programs;*
- *state agricultural conservation;*
- *state nutrient framework or strategy*
- *source water protection;*
- *point sources (including stormwater, confined animal feeding operations, and enforcement of permitted facilities);*
- *ground water;*
- *drinking water;*
- *clean lakes*
- *wetlands protection;*
- *national estuary program;*
- *coastal nonpoint pollution control program;*
- *pesticide management;*
- *climate change planning;*
- *forestry, both federal (U.S. Forest Service) and state; and*
- *U.S. Army Corps of Engineers programs;*
- *other natural resource and environmental management programs.*

Because of the significant resources potentially available through USDA conservation programs, the state makes a strong sustained effort to coordinate and leverage with USDA NRCS. Similarly, a state NPS management program is well-integrated and clearly identifies processes to incorporate some of the significant resources of the CWSRF loan program for eligible nonpoint source activities.

Where applicable, the state NPS management program explains how NPS projects fit into the state's prioritization scheme for CWSRF funding, and describes state efforts to increase the use of the state CWSRF for the NPS management program. If there are barriers to prioritization of NPS projects, the state NPS management program describes efforts to coordinate with the CWSRF program and potential future steps to encourage NPS projects are considered.

Location in Oregon's NPS Plan: Section 3 Oregon's NPS Program, specifically 3.1, 3.3 & 3.4 & Section 4: Management of NPS by Land Use

Evaluation: Nearly complete.

Provides thorough explanations of many of Oregon's water programs such as water quality standards, pesticides, drinking water, ground water, impaired waters/integrated report, TMDL

development and associated implementation plans. ***Fails to include some of the topics listed above such as state nutrient framework or strategy, some point sources (including confined animal feeding operations, enforcement of permitted facilities), clean lakes, wetlands protection, U.S. Army Corps of Engineers programs and climate change planning.***

Provides detailed explanation on how Oregon's NPS management program uses a watershed management approach including incorporation of the EPA's Watershed Plans Nine Elements.

Under 5.3 Incremental Grants, the NPS Plan notes that proposals are ranked through addressing NPS priorities identified in the request for proposals solicitation notice. The solicitation notice provides detailed information on the specific waters and actions needed. ***However, there is no explanation of Oregon's approach to prioritizing waters and watersheds to achieve water quality restoration and protection.***

4. **The state program describes how resources will be allocated between (a) abating known water quality impairments from NPS pollution and (b) protecting threatened and high quality waters from significant threats caused by present and future NPS impacts.**

The program describes its approach to addressing the twin demands of remedying waters that the state has identified as impaired by NPS pollution and preventing new water quality problems from present and reasonably foreseeable future NPS impacts, especially for waters which currently meet water quality standards.

With limited resources, the state will likely need to make choices about the relative emphasis on restoring impaired waters and protecting high quality waters. The state's program describes how it will approach setting priorities and aligning resources between these two areas of emphasis based on their water quality challenges and circumstances.

Location in Oregon's NPS Plan: Executive Summary (page 5) and page 11

Evaluation: Could be improved

Includes protection as a priority and explains how DEQ promotes watershed restoration and protection. ***Could explain how Oregon decides on allocation between restoration and protection and where Oregon places its emphasis (majority of resources towards restoration because....), as well as how Oregon sets priorities and aligns resources between protection and restoration.***

5. **The state program identifies waters and watersheds impaired by NPS pollution as well as priority unimpaired waters for protection. The state establishes a process to assign priority and to progressively address identified watersheds by conducting more detailed watershed assessments, developing watershed-based plans and implementing the plans.**

The state identifies waters impaired by nonpoint source pollution based on currently available information (e.g., in reports under sections 305(b), 319(a), 303(d), 314(a), and 320), and revises its list periodically as more up-to-date assessment information becomes available. As feasible, the state also identifies important unimpaired waters that are threatened or otherwise at risk from nonpoint source pollution.

In addition the state identifies the primary categories and subcategories causing the water

quality impairments, threats, and risks across the state. At regular intervals the state updates the identification of waters impaired or threatened by NPS pollution preferably as part of a single comprehensive state water quality assessment which integrates reports required by the Clean Water Act. The state establishes a process to assign priority and to progressively address identified waters and watersheds by conducting more detailed watershed assessments, developing watershed-based plans, and implementing the plans. Factors used by the state to assign priority to waters and watersheds may include a variety of considerations, for example:

- *human health considerations including source water protection for drinking water;*
- *ecosystem integrity, including ecological risk and stressors;*
- *beneficial uses of the water;*
- *value of the watershed or ground water area to the public;*
- *vulnerability of surface or ground water to additional environmental degradation;*
- *likelihood of achieving demonstrable environmental results;*
- *degree of understanding of the causes of impairment and solutions capable of restoring the water;*
- *implementability (site-specific technical feasibility);*
- *adequacy of existing water quality monitoring data or future monitoring commitments;*
- *degree to which TMDL allocations made to point sources are dependent on NPS reductions being achieved;*
- *extent of partnerships with other federal agencies, states, local public and private agencies/organizations and other stakeholders to coordinate resources and actions;*
- *availability and access of funding sources other than section 319(h); and*
- *readiness to proceed among stakeholders and project partners.*

The state links its prioritization and implementation strategy to other programs and efforts such as those listed under component #3. In establishing priorities for ground water activities, the state considers wellhead protection areas, ground water recharge areas, and zones of significant ground water/surface water interaction, including drinking water sources.

Location in Oregon's NPS Plan:

Evaluation: Incomplete.

Includes a description of how the state conducts assessments, develops TMDLs and implements them. Provide web link to the assessment data base (may want to describe in more detail the information that can be found in this database).

Although Oregon does prioritize its waters for funding purposes (see link to solicitation notice), ***Oregon does not describe how it identifies factors used to assign priority to waters (either unimpaired waters for protection or waters impaired by NPS pollution) (or how Oregon links its prioritization and implementation to other programs).***

Fails to describe how the state identifies important unimpaired waters that are threatened or otherwise at risk or explain why this is not feasible.

6. The state implements all program components required by section 319(b) of the Clean Water Act, and establishes strategic approaches and adaptive management to achieve and maintain water quality standards as expeditiously as practicable. The state reviews and upgrades program components as appropriate. The state program includes a mix of regulatory, non-regulatory, financial and technical assistance, as needed.

The state identifies waters impaired by nonpoint source pollution based on currently available information (e.g., in reports under sections 305(b), 319(a), 303(d), 314(a), and 320), and revises its list periodically as more up-to-date assessment information becomes available. As feasible, the state also identifies important unimpaired waters that are threatened or otherwise at risk from nonpoint source pollution.

In addition the state identifies the primary categories and subcategories causing the water quality impairments, threats, and risks across the state. At regular intervals the state updates the identification of waters impaired or threatened by NPS pollution preferably as part of a single comprehensive state water quality assessment which integrates reports required by the Clean Water Act. The state establishes a process to assign priority and to progressively address identified waters and watersheds by conducting more detailed watershed assessments, developing watershed-based plans, and implementing the plans. Factors used by the state to assign priority to waters and watersheds may include a variety of considerations.

The state links its prioritization and implementation strategy to other programs and efforts such as those listed under component #3. In establishing priorities for ground water activities, the state considers wellhead protection areas, ground water recharge areas, and zones of significant ground water/surface water interaction, including drinking water sources.

Location in Oregon's NPS Plan:

Evaluation: Incomplete.

Missing the identification of measures (i.e., systems of practices) that will be used to control NPS pollution, focusing on those measures which the state believes will be most effective in achieving and maintaining water quality standards. These measures may be individually identified or presented in manuals or compendiums, provided that they are specific and are related to the category or subcategory of nonpoint sources.

Missing the identification of the key programs to achieve implementation of the measures, including, as appropriate, non-regulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects.

Included the description of the processes used to coordinate and, where appropriate, integrate the various programs used to implement NPS pollution controls in the state.

Included sources of funding from federal (other than section 319), state, local, and private sources.

Included Federal land management programs, development projects and financial assistance programs.

Included a description of monitoring and other evaluation programs that the state will conduct to help determine short- and long-term NPS management program effectiveness.

7. The state manages and implements its NPS management program efficiently and effectively, including necessary financial management.

To help assure that priority water quality problems are addressed cost-effectively and in a timely manner, the state includes in its program a process for identifying priority problems and/or watersheds, and deploys resources in a timely fashion to address priorities, including any critical areas requiring treatment and protection within watersheds.

The state employs appropriate programmatic and financial systems that ensure section 319 dollars are used efficiently and consistent with its legal obligations, and generally manages all section 319 funds to maximize water quality benefits. The state ensures that section 319 funds complement and leverage funds available for technical and financial assistance from other federal sources and agencies.

Location in Oregon's NPS Plan: Executive Summary (page 6) and Section 5 (pages 64-69)

Evaluation: Nearly Complete.

Explained that Oregon 319 Grant Program manages the Section 319 funds so that they are primarily used for organizational capacity development and implementation activities, including monitoring used to support TMDL development, implementation and measuring progress

towards achieving TMDL allocations. Noted that the 319 funds are divided into “base” to fund agency staff and “incremental” for funding priority projects via grants to various organizations and described the process for distributing the “incremental” funding to these projects. ***Did not directly address financial management although the Plan stated that “it is critical for the 319 Grant Program to be implemented strategically and efficiently. Oregon’s priorities are to streamline grant administration and reporting, and to allocate funds strategically.”***

Committing to an initiative to streamline grant administration and reporting is great!

Could not locate where the Plan explained how the state ensures that section 319 funds complement and leverage funds available for technical and financial assistance from other federal sources and agencies.

8. **The state reviews and evaluates its NPS management program using environmental and functional measures of success, and revises its NPS management program at least every five years.**

The state establishes appropriate measures of progress in meeting programmatic and water quality goals and objectives identified in key component #1 above. The state also describes a monitoring/evaluation strategy and a schedule to measure success in meeting those goals and objectives. The state integrates monitoring and evaluation strategies with ongoing federal natural resource inventories and monitoring programs.

The state NPS management program is reviewed and revised every five years. The revision is not necessarily a comprehensive update unless significant program changes warrant a revision; instead, an update targets the parts of the program that are out-of-date. At a minimum, this includes updating annual milestones and the schedule for program implementation, so that they remain current and oriented toward achieving water quality goals.

Location in Oregon’s NPS Plan: Executive Summary (page 7), Section 3.1 (page 12) and 5.1 (pages 64-65) and Section 7 Water Quality Data and Assessments (page 75)

Evaluation: Incomplete.

Described the use of the annual NPS report to track yearly progress of implementation of the approved NPS Management Program and prepare annual nitrogen, phosphorus, and sedimentation-siltation NPS pollutant load reduction estimates for NPS projects.

Noted that the state NPS management program will be reviewed and revised every five years.

Described water quality monitoring activities both present and future. Not sure this would qualify as a monitoring/evaluation strategy.

Needs to establish more concrete and appropriate measures of progress in meeting programmatic and water quality goals and objectives identified in key component #1 above such as number of priority waters, reduction goals in phosphorus loading etc.